

### **REMARKS**

Claims 1-5, 8-13, 16-17, and 21 are pending in the application. All pending claims except claim 17 have been amended, and claims 6-7, 14-15, and 18-20 have been canceled. Claim 21 has been added. No new matter has been introduced by the amendment.

#### **Withdrawal of Notice of Allowance**

The Applicant notes the withdrawal of the Notice of Allowance of April 10, 2006, in the above-referenced application. In the Notice of Allowability accompanying the Notice of Allowance, the Office indicated that claims 1-20 were misnumbered in view of the present application status as a continuation of application Serial No. 10/372,625 (now U.S. Patent No. 6,722,597). The Applicant asserts that the pending claims are correctly numbered in view of the substitute specification filed as Appendix B with the Preliminary Amendment of April 20, 2004. The Applicant asserts that the Office accepted the Applicant's substitute specification and the claim numbering in the substitute specification in view of the use of the same claim numbering in the Office Action of September 10, 2004 and in the instant Office Action. Accordingly, the Applicant has maintained this claim numbering.

#### **Rejection Under 35 U.S.C. §112, Second Paragraph**

Claims 8-13 and 15 have been rejected for ambiguity with respect to "the block of material revolving about an axis." This rejection is overcome in view of the amendment of claim 8 in which the phrase "configured to cut the block of material" has been deleted from claim 8.

The rejection of claim 15 is now moot in view of cancellation of that claim.

#### **Rejection Under 35 U.S.C. §102(b)**

Claims 1-3, 8-10, and 16-17 have been rejected over Perkins et al. This rejection is overcome in view of the amendment of claims 1, 8, and 16 together with the following remarks.

Claim 1, as amended, recites a method of shredding a block of food material that includes forming the block of food material by stacking a plurality of ribbons of the food material. The block has a narrow face and an elongated face. Claim 1 further recites cutting shreds of the food material from the narrow front face of the block.

Claim 8, as amended, recites a method of shredding a block of food material that includes forming the block of food material having a narrow face and an elongated side by stacking a plurality of ribbons of food material. Further, claim 8 recites cutting shreds of the food material from the narrow front face.

Claim 16, as amended, recites a method of forming shreds of cheese that includes forming a continuous sheet of cheese, and cutting the cheese along a width to form a plurality of ribbons. The ribbons are stacked to form a block adding a narrow front face and an elongated side. Claim 16 further recites cutting shreds of cheese from the narrow front face of the block.

The Applicant asserts that Perkins et al. do not suggest or disclose the claimed method. In contrast to the Applicant's claims, Perkins et al. disclose a hand-held, hand-crank operated grater and do not suggest or disclose shredding food material from a block formed by the recited method.

Claims 2-3, 9-10, 17 and 21 each add further limitations to the independent claims from which they depend. Support for new claim 21 can be found in the Applicant's specification, for example, in paragraph 33, lines 3-6. These claims are allowable in view of the amendment and remarks pertaining to the independent claims.

Claims 1-3, 8-10, and 16-17 have been rejected over Jonovic et al. This rejection is overcome in view of the amendment of claims 1, 8, and 13 together with the following remarks.

The Applicant asserts that Jonovic et al. do not suggest or disclose the claimed ribbon stacking method for preparing a block formed by a plurality of ribbons nor shredding the narrow face of a block. In the claimed method, the ribbons are fed in a feed plane substantially perpendicular to the axis about which a drum rotates and shreds are cut from the narrow front face of the block. In contrast, Jonovic et al. disclose a chute (34) in which blocks of cheese (33) are gravity fed and pushed into a grater (17) such that the blocks are shredded from an elongated side. (See Col. 3, ll. 57-67; Col. 4, ll. 1-16).

Claims 2-3, 9-10, and 17 each add further limitations to the independent claims from which they depend. These claims are allowable in view of the amendment and remarks pertaining to the independent claims.

### **Rejection Under 35 U.S.C. §103(a)**

Claims 4, 11, and 13 have been rejected over Jonovic et al. in view of Akesson. This rejection is overcome in view of the amendment of claims 1, 8, and 16 together with the following remarks.

Claims 4, 11, and 13 each add further limitations to the independent claims from which they depend. These claims are allowable in view of the failure of Jonovic et al. or Akesson to suggest or disclose cutting shreds of a food material formed by stacking a plurality of ribbons and feeding the food material such that shreds are cut from a narrow face of the block of food material.

Claims 5, 7, 12, 15, and 18 have been rejected over Jonovic et al. in view of Pankratz et al. This rejection is overcome in view of the amendment of claims 1, 8, and 16 together with the following remarks.

The rejection of claims 7, 15, and 18 is now moot in view of cancellation of those claims.

Claims 5 and 12 recite a method that includes moving the block of food material on rollers in the feed direction. Although Pankratz et al. disclose rollers that move loaves of cheese into position so that they can be pressed through a cheese harp, neither Jonovic et al. nor Pankratz et al. suggest or disclose a method that includes stacking a plurality of ribbons into a block and feeding the block toward a shredder and shredding material from a narrow face of the block.

The Applicant further asserts that a *prima facie* case of obviousness has not been established at least because there is no suggestion within either Pankratz et al. or Jonovic et al. that machinery and methods described by these references be somehow combined to yield the Applicant's claimed method. For example, Pankratz et al. state that their apparatus will accept standard loaves only when the loaf has been automatically and properly positioned for ingestion into the cutting portion of the apparatus. (See Col. 1, ll. 10-14). Pankratz et al. go on to describe the great difficulty that has been encountered in manufacturing consistently operable cheese handling equipment. (See Col. 1, ll. 45-49). The apparatus and method disclosed by Pankratz et al. is intended to overcome a problem of avoiding cheese particles adhering to the wires of a harp. According to Pankratz et al., the solution to this problem is to use a vertical harp rather than a horizontal harp. (See Col. 2, ll. 56-68; Col. 3, ll. 1-9). Thus, a stated object of the invention disclosed by Pankratz et al. is to cut a standard loaf of cheese when the loaf is properly

positioned in an intake position and cut by passing it through a vertical harp. (See Col. 4, ll. 16-26). Accordingly, the positioning and orientation of the cheese loaf with respect to the vertical harp of Pankratz et al. is a particular focus of the apparatus and method described therein.

Even if there was some suggestion to combine the machine disclosed by Jonovic et al. with the Pankratz et al. device, the combination would provide a gravity feeding apparatus that in no way addresses the problem sought to be solved by Pankratz et al. In view of the disparity between the systems and methods taught by Jonovic et al. and Pankratz et al., the Applicant asserts that there is no motivation to combine these references and their combination does not establish a *prima facie* case of obviousness.

Claim 19 was rejected over Jonovic et al. in view of Pankratz et al. and further in view of Smith. Although this rejection is now moot in view of the cancellation of claim 19, the Applicant has incorporated certain concepts of cancelled claims 18 and 19 into the independent claims. The Applicant asserts that the pending claims are not obvious in view of the cited references at least because of the failure of either Jonovic et al. or Pankratz et al. to suggest that the equipment disclosed in these references be combined. Even if one skilled in the art was somehow motivated to combine the casting and slicing method disclosed by Smith with process and equipment disclosed by Pankratz et al., there is still no motivation to combine these references with Jonovic et al. Accordingly, a *prima facie* case of obviousness does not exist.

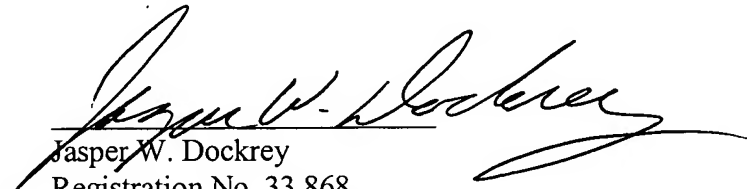
Claim 20 has been rejected over Jonovic et al. in view of Keel. This rejection is now moot in view of the cancellation of claim 20.

The remaining references have been carefully reviewed and found not to be relevant to the Applicant's pending claims.

The Applicant has made a novel and nonobvious contribution to the art of food material processing. The claims at issue distinguish over the cited references and are in condition for allowance. Accordingly, such allowance is now earnestly requested.

Respectfully submitted,

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